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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,761	11/26/2003	John Gavin MacDonald	KCX-1068 (19800)	9700
22827	7590	12/04/2006	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			CHAPMAN, GINGER T	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,761

Applicant(s)

MACDONALD ET AL.

Examiner

Ginger T. Chapman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17, 18, 22-28, 32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17, 18, 22-28, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Status of the claims

As per Applicants' amendment filed 4/27/2006, claims 1-16, 19-21 and 29-31 are cancelled, claims 32-33 are added, claims 17-18, 22-28 and 32-33 are pending in the application.

Withdrawn objections:

The objection to the drawings for failing to show every feature of the invention specified in the claims is withdrawn in view of Applicants arguments that the Tissue wrap (37) may be synonymous with the odor sorbent substrate. In view of (a.) the instant specification at p. 11, ll. 1-2 that the odor sorbent substrate can replace the tissue wrap or be a secondary wrap around the core; and (b.) the odor sorbent substrate is not assigned a reference number in the specification. Therefore examiner is considering the tissue wrap (37) depicted in Figure 6 to be the odor sorbent substrate as claimed in claim 17, therefore the objection to the drawings is withdrawn.

Claim Rejections - 35 USC § 102/ Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 17-18, 22-27 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujinami et al (US 3,939,838) in view of Tanzer et al (EP 348,978).

With respect to claims 17 and 33, Fujinami et al, in Figures 2, 5 and 6, disclose a personal care product (21, 51, 61) comprising a liquid impervious baffle (25, 55, 65), a liquid pervious liner (22, 52, 62), an absorbent core (23, 53, 63) positioned between baffle and liner, and an odor sorbent substrate (26, 56, 66) that is coated with activated carbon particles (col. 4, l. 10) and binder (col. 3, l. 50-53) positioned between the baffle (25) and the core (23) (fig. 2).

Fujinami discloses the invention substantially as claimed except for the substrate located wrapped around the core. Tanzer, at p. 5, ll. 3-4 teaches that the odor sorbent substrate should be positioned within the article so as to intersect vapors emanating from the article and thereby absorbs the malodors emanating from the article. As seen in Figures 11 and 12, Tanzer et al disclose an odor sorbent substrate (130) wrapped around (120, 122) the absorbent core (116) so that one or more sides (140) of the core are left open. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the odor sorbent substrate of Fujinami wrapped around the absorbent core since Tanzer states at p. 5, ll. 4-12 that the advantage to locating the odor sorbent substrate wrapped around the absorbent core within the article allows it to absorb malodors emanating from the article and it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

With respect to claim 18, Fujinami et al disclose the personal care product (11) is a feminine hygiene product.

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With respect to claims 22-24, Fujinami et al disclose the activated carbon particles are present in an amount between about 2 and 80 weight percent and between about 10 and 30 weight percent of the substrate (56) on a dry basis (col. 4, ll. 38-39).

With respect to claim 25, Fujinami et al disclose the substrate (26, 56, 66) contains a nonwoven web (col. 3, l. 24-25).

With respect to claim 26, Fujinami et al disclose the substrate (26, 44, 56, 66) contains a wetlaid or airlaid paper web (col. 3, ll. 39-42).

With respect to claim 27, in Figure 4 Fujinami et al disclose the substrate (44) contains a film (col. 2, ll. 47-50 and col. 3, ll. 30-31).

With regard to claim 31, the method of applying the ink is a product-by-process limitation. The claims are drawn to a product, which does not depend on its method of production, and in each case the product is the same. Fujinami discloses applying the ink to the substrate, as described at c. 3, ll. 45-55, Fujinami therefore discloses the product and fulfills the claimed limitations.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujinami in view of Tanzer and further in view of Pomplun et al (US 6,713,414).

With respect to claim 28, Tanzer et al disclose the substrate can be formed with a binder but do not expressly disclose a binder. Pomplun et al teach a personal care product (col. 1, ll. 19-20) having activated carbon particles for odor control (col. 26, ll. 58-66) and styrene-acrylic binder (col. 14, l. 43). Pomplun teaches at column 14, lines 20-21 that such a binder can help reduce the stiffness of the personal care product to which it is applied. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the

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personal care product of Tanzer using styrene-acrylic binder as taught by Pomplun in order to provide a personal care product with reduced stiffness since Pomplun states at column 14 lines 26-27 that an undesirable amount of stiffness is detrimental to the handling of the product during processing.

Response to Arguments

Applicant's arguments filed 6 November 2006 have been fully considered but they are not persuasive. Applicant argues the following:

Applicant believes that the rejection of claim 28 is based on a new reference, US Patent 6,713,414; and (2) Tanzer's deodorizing compound is positioned in the cavity or space between the absorbent core and the baffle which overlies the core, and therefore the deodorizing compound is not coated on the core substrate; and (3) Tanzer teaches 25-99% basic product in the deodorizer and it would not be obvious to take it out because Tanzer relies on it to both deodorize and to neutralize.

The examiner respectfully traverses Applicant's arguments and maintains the art rejections of the rejected claims for the following reasons: (1) The '414 reference was made of record on 12/21/2005 and thus was not a new reference; (2) the deodorizing substance of Tanzer is not floating in mid-air and being positioned in the cavity between the baffle and the core necessarily means that it must coat the core; (3) the rejection relies on Fujiname for the composition of the ink and applicant cannot attack one reference but rather must address the combination of references: In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the

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rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Therefore examiner respectfully traverses Applicants' arguments and maintains the art rejections of the rejected claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ginger Chapman
Examiner, Art Unit 3761
11/22/06



TATYANA ZALUKAEVA
SUPERVISORY ~~PR~~ EXAMINER

